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Letter dated 28 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Cape Verde, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: English]

Note verbale dated 27 December 2001 from the Minister for Foreign Affairs of the Republic of Cape Verde addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Ministry of Foreign Affairs presents its compliments to the Secretariat of the Organization of the United Nations, secretariat of the Counter-Terrorism Committee, and has the honour to transmit herewith the report of the Government of the Republic of Cape Verde pursuant to operative paragraph 6 of resolution 1373 (2001) of the Security Council of the United Nations (see enclosure).

The Ministry of Foreign Affairs, Cooperation and Communities avails itself of this opportunity to express to the United Nations secretariat of the Counter-Terrorism Committee the assurances of its highest consideration.

Enclosure

Report of the Government of the Republic of Cape Verde pursuant to operative paragraph 6 of resolution 1373 (2001) of the Security Council of the United Nations

Introduction

The Government of Cape Verde condemned in the strongest terms the perpetration of the terrorist attacks committed against the United States on September 11. The leaders of all political parties expressed similar positions. In many places of the country ordinary citizens gathered or organized demonstrations against these barbaric acts. Two days of national mourning were declared.

In view of the events, the Capeverdean authorities implemented immediate measures intended to raise the level of security, namely in and around international airports. Police personnel were increased and the schemes of control of movements of passengers and baggage were tied. At the same time the Head of the government, Mr José Maria Pereira Neves, announced that a new special detachment would be created to deal with airport security as well as a service of information and security.

On the other hand the government has declared its readiness to co-operate with the international efforts aimed at combating terrorism.

The Government is also studying closely the resolution 1373 (2001) and is preparing to take the necessary steps to implement it.

In this context, a national committee headed by the Minister for Foreign Affairs, Cooperation and Communities and integrated by representatives of all pertinent sectors such as police, justice, defence, civil protection, health, finance, banking, civil aviation, telecommunication, transportation, public administration and insurance has been created by the Government. This committee will serve as a dynamic and proactive catalytic interface between the United Nations and all other interested party and Capeverdean involved operational and or executive organisms with a view to ensure steadfast implementation by the country of the provisions of Security Council 1373 (2001) Resolution.

Cape Verde is party to some international conventions and protocols to combat terrorism and is taking the necessary steps to become a party to the remainder in the near future in accordance with the procedures established by its national law.

Cape Verde is of the view that either those responsible for the 10/11 terrorist attacks or any other person, who committed, participated or were accomplice in any terrorist act or in any other related act must be brought to justice and all States should co-operate to this end. However, caution should be used to ensure that no more innocent people be added to the already too the long list of victims of those crimes and serve as further excuse for committing new acts of terror.

Cape Verde is convinced that from now on terrorism must have a strong and resolute combat through appropriate responses and preventive measures designed to stop criminal violence vested with political or religious motivations. No country is safe from such attacks or from the use of its territory for the practice of such terrorist actions. Therefore, any strategy aimed at eliminating once and for all this dangerous threat to international peace and security must be a common strategy with the participation of a large number of the members of the international community and in which the United Nations should have a decisive role.

Cape Verde recognizes also that besides prosecuting and punishing the perpetrators of terrorist acts, it is necessary to deprive them from their breeding grounds. A successful campaign to eradicate terrorism has to address the long-term

challenges that were so eloquently enumerated in the Millennium Declaration. As long as political, economic and social injustices are allowed to prevail there will always be people trying to exploit them for their narrow political agendas or criminal purposes. As long as the international community lacks the capacity to put an end to conflicts and address their real causes, there will be no shortage of recruits for all sorts of desperate acts.

While adopting the necessary measures to eliminate the threat posed by the activities of terrorist groups, their master minders and supporters, it is important to ensure that the already scarce resources intended to promote economic and social development of developing countries are not diverted. Instead, the developed countries should make a stronger commitment to help put an end to poverty, deprivation and marginalization, particularly in the Least Developed Countries.

This commitment should start now, by helping developing countries face the additional burden brought by their own effort to participate in the international campaign against international terrorism. By redirecting a share of their already scarce resources to increase the level of security, they are led to reduce their capacity in addressing the huge challenges of providing for the basic needs of their impoverished populations.

In one word, the United Nations should play a decisive role in this co-operation by adopting effective measures and reinforcing the legal framework aimed at combating terrorism.

Cape Verde urges an early adoption of the General Convention against Terrorism despite some difficulties, namely in what concerns the definition of terrorism. For this purpose Cape Verde supports the Non Aligned Movement's proposal to convene under the auspices of the United Nations a high-level conference to unite the international efforts and adopt a co-ordinated response to suppress and eliminate terrorism.

Paragraph 1

(a) Cape Verde has already legislation (Law nr. 78/IV/93, of 12 of July) against money laundering related to unlawful traffic of drugs and other goods and products acquired through other grave crimes as provided for in article 2, paragraph 1 of this law.

However, taking into account, among others, the need:

(i) to enlarge the object of the crime of money laundering,

(ii) to limit the scope of the duty of banking secret,

(iii) to establish governing rules for the functioning of banking entities with a view to prevent money laundering,

(iv) to consecrate the obligation of banking entities to gather information about the real identity of the beneficiaries of banking or financial operations, while performing their activities,

(v) to make it obligatory that all international transfers of currency, exchange value or bond exceeding one million Capeverdean escudos be made through banking or financial institutions duly authorized to make such transfers,

(vi) to establish the obligation of declaring in the entry point of the national territory of an amount of national or foreign currency equivalent to one million Capeverdean escudos,

(vii) to grant control and regulatory powers to the authorities in charge of the supervision and regulation of the financial and banking systems necessary to enable them to establish the administrative regulations and to monitor the compliance with legislation and norms designed to prevent money laundering,

(viii) to put in place criminal procedural norms allowing the competent national judicial authorities to cooperate efficaciously with INTERPOL and with foreign authorities competent to investigate and punish money laundering offences, and

(ix) to establish necessary preventive legal measures aimed at guaranteeing the execution of judicial decisions, namely foreign judicial decisions, determining the lost or apprehension of assets, products or capitals, even when the facts related to money laundering have been committed abroad, provided that assets, products and capitals related to this money laundering offence are in Cape Verde.

The Government has asked for legislative authorization and obtained approval from the Parliament through the Law 129/V/2001, of January 22.

Nevertheless, the end of the previous legislature brought to its end the said authorization. For this reason, the draft Legislative Decree prepared on the basis of that authorization could not be approved. The new Government, after having reviewed it is on the verge of taking early action in 2002 either by asking for a new legislative authorization either by submitting a proposal of Law for approval of the Parliament. The national committee created with a view to facilitate the implementation of Resolution 1373 (2001) has already decided to include this matter as one that will be inscribed in its plan of action for 2002.

(b) What was said in (a) applies to this sub-paragraph.

(c) What was said in (a) applies to this sub-paragraph. However the Capeverdean authorities have no knowledge whatsoever of such kind of activities being taking place in Cape Verde so far. For this reason no action has been taken in this field up to this moment.

(d) What was said in (a) and (c) applies to this sub-paragraph.

Paragraph 2

(a) Any of the activities mentioned in this sub-paragraph are contrary to the spirit and many of the principles enshrined in the Constitution namely the principles of respect for international law and human rights as well as those related to disarmament and promotion of peace, security and friendly relations among States *(Article 11 of the Constitution of the Republic of Cape Verde)*.

The Criminal Code of the country was inherited from the colonial era. There is a criminal reform under preparation, which will establish modern norms capable of tackling the challenging realities faced today not only by the Capeverdean society but also by the international community as a whole.

(b) The following measures were taken with a view to prevent terrorist acts:

(i) Permanent updating of the files and data basis of the international airport "Amilcar Cabral" in Sal Island and of other entry points such as the regional airport "Francisco Mendes" in Praia, the capital of the country,

(ii) Strict control of passengers and baggage,

(iii) Control of access and vigilance by agents and camera circuit of the sensitive areas of the airports,

(iv) inspection or sterilization of passengers both at the moment of embarkation and disembarkation, manually and through x-rays,

(v) continuous contacts with the appropriate American authorities to know their concerns in this field,

(vi) the Government has made a public commitment of creating an organism that will be in charge of the information and security as well as a military unit, which will be able to be rapidly deployed in case of terrorist acts. There is work underway that is being done by the appropriate technical organisms in the designing of those entities,

(vii) On the other hand the government has declared its readiness to co-operate with the international efforts aimed at combating terrorism.

(c) The government plans to prepare legislation to address this matter. This issue will also be in the agenda of the national Committee created to facilitate implementation of Resolution 1373 (2001).

(d) This matter will be solved in the framework of the reform of the criminal system whose preparation is going on. This issue will also be in the agenda of the national Committee created to facilitate the implementation of Resolution 1373 (2001).

(e) This matter will be solved in the framework of the reform of the criminal system whose preparation is going on. This issue will also be in the agenda of the national Committee created to facilitate implementation of Resolution 1373 (2001).

(f) No request of such kind of assistance has been made so far to the Capeverdean competent authorities by any State.

(g) The following control procedures related to identification and travel documents directed to prevent terrorist movements are in place:

(i) Computerization of the process of visa issuance,

(ii) Installation of equipments of inspection and control of documents, such as Retro check, QDX, and Photo-phone in the most important airports,

(iii) Existence of a contingency plan for "Amilcar Cabral" airport,

(iv) The Capeverdean aeronautical authority, "Instituto da Aviação Civil (IAC)" has recently signed a memorandum of agreement with the Federal Aviation Administration (FAA) of the Department of Transportation of the United States of America under which the latter may provide technical assistance to its Capeverdean counterpart in the fields of traffic control, facility engineering, aviation safety and security and other aviation related disciplines.

Paragraph 3

(a) The following measures were taken to accelerate, *inter alia,* exchange of operational information related to terrorism, specially regarding actions or movements of terrorists and forged or falsified travel documents:

(i) contacts in a regular and continuous basis with the United States Embassy in Praia,

(ii) contacts have been made with the authorities of the Federal Republic of Germany with a view of the installation of a fax machine in the Headquarters of the POP (national police) for the purpose of exchanging encoded information concerning terrorism,

(iii) Cape Verde has ratified the land mine Convention on 2001-12-26,

(iv) Cape Verde has signed the ECOWAS moratorium on purchases of firearms,

(v) Cape Verde is a party to the Pelindaba treaty,

(vi) Cape Verde has signed the Chemical Weapons Convention and the Comprehensive Nuclear Test Ban Treaty and is on the verge of ratifying them.

(b) What was said in the previous paragraph applies to this paragraph.

(c) Cooperation through bilateral and multilateral treaties:

(i) Cape Verde is eager to cooperate in this field with other countries and especially with the African countries. In this context the Government submitted already to the Parliament for approval the OAU Convention against Terrorism. In the same spirit the Head of State of Cape Verde participated in a regional conference on terrorism promoted by the President of Senegal.The Prime Minister participated in the last Summit of ECOWAS were important issues and instruments related to terrorism were discussed,

(ii) Cape Verde is in favour of an early adoption of a General Convention against Terrorism. For this purpose it supports the Non-Aligned Movement's proposal to convene under the auspices of the United Nations a high-level conference to unite the international efforts and adopt a co-ordinated response to suppress and eliminate terrorism,

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(d) Actions taken or in course concerning the Conventions and Protocols pertaining to terrorism:

(i) On September 11, 2001 Cape Verde was already party to the following three international legal instruments:

- *Convention on Offences and Certain Other Acts Committed on Board of Aircraft, signed at Tokyo on 14 September 1963 (entered into force on 4 December 1969)(Law nr 55/III/89 of 06/13/1989)*
- *Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970 (entered into force on 14 October 1971)(Law nr 54/III/89 of 06/13/1989)*
- *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971 (entered into force on 26 January 1973) (Law nr 56/III/89 of 06/13/1989)*

(ii) On November 16, 2001, the Minister for Foreign Affairs, Cooperation and Communities of Cape Verde, Mr. Manuel Inocêncio Sousa, participated in the forum organized by the Secretary General of the United Nations and signed the *International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999 (opened for signature on 10 January 2000 until 31 December 2001) in New York*. This act has already been approved by the Council of Ministers. Furthermore, the Government decided, in accordance with article 178 (b) of the Constitution, to submit a proposal of resolution of approval of the said Convention to the country's legislative body, the "Assembleia Nacional", for the purpose of its approval for ratification,

(iii) The remaining nine global or regional treaties against terrorism that exist currently, which are listed bellow, were also submitted by the Government to the Capeverdean Parliament for approval. It is, therefore, expected that Cape Verde will be fully member of all those instruments in the course of the first quarter of 2002:

- *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973 (entered into force on 20 February 1977)*
- *International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979 (entered into force on 3 June 1983): status as at 13 June 2001*
- *Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980 (entered into force on 8 February 1987*
- *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988 (entered into force on 6 August 1989)*
- *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988 (entered into force on 1 March 1992)*
- *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988 (entered into force on 1 March 1992)*

- *Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991 (entered into force on 21 June 1998)*

- *International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997 (opened for signature on 12 January 1998 until 31 December 1999)*

- *OAU Convention on the Prevention and Combating of Terrorism, adopted at Algiers on 14 July 1999*

e) The Aeronautical Code approved by the Legislative Decree nr 1/2001 establishes, among others, the following criminal penalties:

i) Seizure of aircraft: (*Article 297*)- imprisonment from 5 to 12 years and from 16 to 25 if the offence resulted in injury or death,

(ii) Attack against flying aircraft: (*Article 297*)- imprisonment from 2 to 8 years and from 6 to 12 if the attack provoked injury and from 16 to 25 in case of death,

(iii) Attack against the security of civil aviation: (*Article 300*)- penalties of 1 to 5 years of imprisonment. In case of injury 2 to 8 years and in case of death 4 to 12 years,

(iv) Carriage of explosives on board of aircrafts: (*Article 303*)- the person who authorized or allowed unlawfully the entry in the State territory or in its territorial waters as well as the over-flying will be punished with imprisonment from 3 to 6 month. In case of injury 1 to 4 years of imprisonment and in case of death from 4 to 8 years of imprisonment.

27 December 2001